

Case No. 01-CA-112724

**RESPONDENT'S EXCEPTIONS TO
THE ALJ'S RECOMMENDED
DECISION AND ORDER**

**UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD
BOARD'S OFFICE OF THE EXECUTIVE SECRETARY
WASHINGTON, DC**

**REM TRANSPORTATION SERVICES LLC,
AMROS AUTO LLC & AUTOTRANS KATAYENKO
LLC**

Case No. 01-CA-112724

And

JORGE DAVILA, An Individual

Laura Pawle, Esq., Counsel for the General Counsel
Alexei Kataenko, Pro Se, for the Respondent

**RESPONDENT'S EXCEPTIONS TO
THE ALJ'S RECOMMENDED DECISION AND ORDER**

Respondent, REM Services LLC et al. ("Respondent"), pursuant to 29 C.F.R. § 102.46 of the Board's Rules and Regulations ("Board"), hereby submits its Exceptions to the June 4, 2014 Administrative Law Judge's ("ALJ's") Recommended Decision and Order in the above-captioned matter. The facts, arguments and authorities in support of these exceptions are provided below.

Exception 1:

The Respondent excepts to the ALJ's conclusion that "3. By paying Jorge Davila \$20 weekly seniority pay, rather than \$35 weekly, from April through September 2013, and by discharging him on September 6, 2013, the Respondent violated Section 8(a)(3)(4) of the Act" (ALJ at page 8 line 42). Respondent paid Davila proper Seniority Pay amount, in strict accordance with Respondent's official policies on Seniority Pay and seniority calculation based on the Date of Last Hire (Exh. GC 22, GC 23, GC 7). Respondent terminated Davila for being very unsafe driver, having 4 accidents AT FAULT during his employment with Respondent, and also two accidents AT FAULT on his personal car during the same time period (Davila's RMV driving record).

Exception 2:

The Respondent excepts to the ALJ's failure to recognize the fact that Respondent's Seniority Pay policy had a clear unambiguous language, "- employees with three years of continuous work ... will be paid ... Three years of service - extra \$20/week, Five years of service - extra \$35/week.." (Exh. GC 22) - and that Counsel's personal opinion that CONTINUOUS is not just "Since the last hire" as Respondent defines its Seniority pay policy (GC 22, GC 23), but something more confusing - has no bearing on ALJ's duty to decide on main question - was Davila paid the PROPER amount of Seniority Pay, in accordance with the Respondents policy to the letter (GC 22), or was he paid an amount LOWER than entitled under the Respondent's policy (GC 22)? Davila resigned on 2/6/2009. He came back and was hired from scratch on 3/11/2009. For all purposes and in all internal Respondent's documents his last date of hire is 3/11/2009 (GC 6, GC7, GC 23).

"Counsel alleges that since he was only away from employment for about a month in 2009, that should not have been considered a break in employment" was just her personal opinion, pure invention, contrary to Respondent's Seniority Pay policy, and how Respondent calculates seniority.

Exception 3:

The Respondent excepts to the ALJ's failure to recognize the fact that discrepancy between Payroll Records (GC 24) and Respondent Seniority List (GC 23) is a clear indication that Seniority List was created ~~based~~ not on payroll records. Seniority List was created by General Manager and was updated from time to time by him, and was based on some internal Employees tracking file, that had errors on hire/fire dates for couple employees because of very high turnover rate and human errors on keeping it up to date ("Eugeniy Karyakin, Respondent's General Manager, testified 'It was my mistake'"); that also explains Grisell Rosado discrepancy

(ALJ's at page 2 line 29). Davila still was paid the proper amount of Seniority Pay, exactly as he was entitled to under Respondents policy (GC 22).

Exception 4:

The Respondent excepts to the ALJ's failure to acknowledge a simple concept of the Accident AT FAULT that Respondent completely based its termination decisions and defense upon, where only Accidents at fault are counted against the Employee, and decisions to terminate, issue warning 'one more accident and you are out' are made based on the number of accidents at fault, not the cost of repair or injuries. In 12 years in business Respondent never had an accident with serious injuries, Thanks God. (ALJ's at page 3, line 34).

Exception 5:

The Respondent excepts to the ALJ's failure to acknowledge that Respondent is justified in its decision to terminate any employee it deemed unsafe, that is Respondent's responsibility with Clients, Consumers, Patients, Agencies and Employees. Respondent uses its judgement and experience and also business needs (we still need drivers, even imperfect. We also need to keep accidents at a minimum and insurance rates low) and sometimes have to terminate WORST drivers. Davila was the WORST driver in a Company, with 4 accidents at fault, plus 2 more accidents at fault on his personal car, and as such he was terminated. (ALJ's at page 3, line 37).

Exception 6:

The Respondent excepts to the ALJ's failure to acknowledge dramatic differences between different types of accidents. ~~Certain~~ Certain accidents should never happened, and if they happen that is an indicator that driver is very unsafe. In general – if driver rear ended another vehicle, or had any collision while backing the vehicle, or making left turn onto oncoming traffic, or maneuvering (changing lanes) – always driver's fault. These types of accidents are always driver's fault, indicative of negligence and absolutely unacceptable, regardless of damage or injuries.

Exception 7:

The Respondent excepts to the ALJ's failure to recognize the fact that Davila's accident on July 24, 2008 was indeed HIS FAULT. Insurance company found that there was his fault, and that he lied about other vehicle backed into Davila's vehicle; rather Davila rear ended the other vehicle (GC 4). (ALJ's at page 4. line 8), also Exh. B attached below.

Exception 8:

The Respondent excepts to the ALJ's emphasizing or giving any weight to the fact that "Davila testified that he did not receive any warning regarding his accident record in 2008". Respondent issues warnings sporadically only like 'One more accident and you are fired' type, so absence of warnings is only indicative of rather informal way of doing business with just two managers at the office and not much paperwork created. That also explains some level of errors present in company records – result of human errors doing paperwork. (ALJ's at page 4, line 13).

Exception 9:

The Respondent excepts to the ALJ's failure to recognize the fact that complaint about bad brakes is the usual excuse of drivers after they rear ended another vehicle. Respondent took that brakes issue very seriously, mechanics checked brakes, test ride the vehicle, and found that brakes worked properly and van was safe to drive and transport passengers. Davila brought that very van 25 to garage for weekly inspection several days before the 9/3/13 accident and checked in a checklist that brakes were OK. He then drove the same van until his termination on 9/6/13. (ALJ's at page 5, line 6.)

Exception 10:

The Respondent excepts to the ALJ's belief that if Respondent didn't call its mechanics to testify about the brakes it somehow bolster Davila's story that brakes were bad. The fact that Davila was allowed to drive the same van that very day (9/3/14), then 3 more days to transport passengers indicates that van was safe and brakes were good. (ALJ's at page 5 line 9).

Exception 11:

The Respondent excepts to the ALJ's conclusion that "it is difficult to decipher from accident reports", (ALJ's at page 5, line 14), and failed to come up with some simple formal system of classifying and grouping accidents, so to be able compare apples with apples. Counsel for General Counsel created a list of Respondent's employees' accidents she selected to use as evidence (Post Hearing Brief on Behalf of General Counsel, page 11-15, 15-20), and by looking at that list, and use very simple way to identify accidents AT FAULT (rear ending, backing, accidents while turning or changing lanes) one can see the following:

Drivers who were discharged (ALJ's at page 5, line 13):

NAME	ACCIDENTS AT FAULT
Karapetyan	3
Mendez	1
Rodriguez	1
Marseille	1
Arroyo	2
Martinez	4
Aime	2 (1 serious, van totaled)
Cristobal	4 (by 10/2013 she had 3 and still employed, then on 12/2013 had another accident at fault and was terminated)

Drivers who were not discharged (ALJ's at page 6, line 9)

NAME	ACCIDENTS AT FAULT
Aybar	0
Brown	0
Cristobal	3 (later had an accident at fault and was terminated)
Mario Martinez	2

V. Martinez	3 (quit rather than being terminated, rehired as Monitor)
Ricker	2 (had warning "one more accident you are fired")
Y. Rodrigez	2 resigned
R. Rosario	3 resigned

Exception 12:

The Respondent excepts to the ALJ's reliance on Counsel for General Counsel allegations that "Rosado was paid \$20 weekly seniority pay because her two periods of employment were combined" (ALJ's at page 7, line 26). Rosado was paid seniority pay because General Manager Karyakin failed to properly update his internal employees file and failed to record that Rosado restarted her work at the Company on 4/2011. Rosado was not eligible for seniority pay she happily collected, but Davila still was paid the proper amount.

Exception 13:

The Respondent excepts to the ALJ's acceptance of the fact that Counsel for General Counsel was correct in stating "that the only reason for giving him \$20, rather than \$35 weekly, was that he testified at the Board" (ALJ's at page 7, line 19). In all Respondents internal documents pertaining to Davila his Date of last hire was 3/11/2009, so ALJ erred in believing Counsel that there was "only reason for giving him \$20...was that testified at the Board". Davila's resigning on 2/9/2009 (GC 6) was definitely a reason, his seniority was interrupted, and in accordance with Respondent policy on Seniority pay (GC 22) was essentially reset to zero. Davila's filing the Employment Application on 3/11/2009, and also a note that he started his new employment with Respondent on 3/11/2009 (GC 7) also definitely was a reason, well documented reason, while Counsel's unsubstantiated allegations (and ALJ's relying on them) were most likely not. Her allegations are based on thinking that retaliation, retribution, revenge is the moving factors of human nature, but for Respondent, quite successful entrepreneur, these traits are not his motivating factors.

Exception 14:

The Respondent excepts to the ALJ's conclusion that the fact that "Rosado, who had a break in employment with the Respondent similar to Davila, yet received seniority pay which she was not entitled to", (ALJ at page 7, line 34) somehow proves disparate treatment of Davila, who was paid the proper amount of Seniority Pay. Rosado was paid because of General Manager Karyakin's mistake (ALJ's at page 2, line 35), who didn't update his employees file and that absence of the break in her tenure migrated into Seniority pay table (GC 23).

Exception 15:

The Respondent excepts to the ALJ's failure to recognize the fact that if Rosado was not entitled to Seniority pay (ALJ at page 7, line 34), that fact proves that there is no link between Davila's Seniority pay and Rosado's Sr. pay. Rosado was not entitled to Sr. Pay, so she can't be used as any base for comparison, she's an aberration, statistical error that shall be excluded altogether from any analysis.

Exception 16:

The Respondent excepts to the ALJ's conclusion made on just one obvious mistake – "Rosado, who had a break in employment with the Respondent similar to Davila, yet received seniority pay which she was not entitled to", (ALJ at page 7, line 34) – ALJ himself states that Rosado was not entitled to Seniority Pay, obvious mistake, then states that MISTAKE can be a proof that Davila, who was not afforded the same MISTAKE was somehow discriminated upon?

Exception 17:

The Respondent excepts to the ALJ's treatment of facts "I find further that the Respondent has not satisfied its burden of establishing that Davila would have been paid \$20 seniority pay even absent his protected conduct. Respondent's sole argument is that Davila did not have the required continuous service as he signed a resignation letter on leaving, and a new employee probationary form when he returned. However, Rosado received the seniority pay ..." (ALJ's at

page 7, line 36). Respondent's sole argument that Davila did not have the required seniority is a documented fact supported by exhibits (GC 6, 7, 22,23). Davila had 4 years since his last hire, the Seniority pay policy was established 5 months prior to his termination for accidents, it had a very clear language, "...years of CONTINUOUS service..", and in accordance with the terms of his tenure and policy he was paid a proper amount, \$20/week. These are ironclad facts, undisputable, no ambiguity in Davila's date of last hire, relevant seniority and his seniority pay, 4 years - \$20/week. Out of 25-30 employees eligible for seniority pay just one (Rosado) was for some reason (mistake, whatever) paid what she was not entitled to. How is that fact shows discrimination against Davila? He was paid the proper amount. Period.

Exception 18:

The Respondent excepts to the ALJ's finding of fact that "by paying Davila \$20 a week seniority pay, rather than \$35 a week, the Respondent violated Section 8(a)(3)(4)(1) of the Act" (ALJ's at page 7, line 43). Paying Davila \$35 a week would be a pure invention, because Davila was hired on 3/11/2009, his tenure with Respondent for the purpose of calculating seniority started on that date, and as of April 2013 he had 4 years seniority and was paid a proper amount of Seniority Pay - \$20 a week. Davila was paid a proper amount, so any finding of facts by ALJ that somehow Davila should of be paid more is a gross twisting of facts, logic and the law.

Exception 19:

The Respondent excepts to the ALJ's failure to acknowledge the fact that such a rather informal task as to compare accident reports of various employees selected by Counsel should include some leeway and doubt to the benefits of the accused – Respondent. "This is not a perfect comparison for a number of reasons" (ALJ's at page 7, line 49). Comparing accident reports shall include some sort of digitizing and formalizing, not merely listing them with sort of brief description and further fogging the issue by saying – that many months passed since... Failure to group accidents into some sort of groups by drivers' fault (yes/no), seriousness etc. makes the

whole process of comparing meaningless. Unless you compare apples with apples, not oranges – it's unfair to the accused. As Respondent listed above (Exception 11) – simple look at the list of accidents by discharged and not discharged drivers clearly show:

Drivers discharged – (ALJ lists 8 of them, they had 18 accidents At Fault in total, >2.25 in average per driver, none with more than 4 accidents, those discharged with 1 accident – were on probation period)

Drivers not discharged – (ALJ lists 8 of them, had 15 accidents at Fault in total, <1.88 in average, none with more than 3 accidents)

Davila with 4 accidents looks worst of both groups, so his termination was for the accidents at fault record, not for past unionizing activity.

Exception 20:

The Respondent excepts to the ALJ's finding of fact that Davila was terminated not for him having 4th accident at fault while employed by Respondent, while doing comparison of accidents of three groups of employees – terminated for accidents, not terminated and Davila. ALJ's failure to introduce some sort of system for coming with some sort of counting of the accidents of different nature (at fault and not at fault) when compare Davila's accidents with accidents by employees in two groups – terminated (for accidents) and not terminated for having accidents. Respondent's employment practice (and defense) lies on a notion that only accidents at fault should be counted and compared within three groups (the third one being Davila). ALJ haven't utilized any type of model to support his finding of facts with any type of numerical analysis, not even average number of accidents at fault in three groups. Even simple counting will do, but even that is absent from both Analysis chapter and – more troubling – from the finding of facts at all.

Exception 21:

The Respondent excepts to the ALJ's finding of fact, specifically that ALJ omitted an accident that Davila had on 7/24/2008 (GC 4), on a presumption that that accident was not a Davila's fault. Insurance company decided that that accident was a sole Davila's responsibility, that he rear ended another vehicle, and that Davila invented a story that another vehicle backed up to him, causing significant damage to both vehicles, see Exh. B attached below.

Exception 22:

The Respondent excepts to the ALJ's finding of fact that "Davila had" (ALJ's at page 8, line 5) only two accidents at fault. By looking at Davila list of accidents (Post Hearing Brief by Respondent, Exh. A) – the fact is that Davila had 7 accidents while employed with Respondent, 4 of them Davila's fault:

Date	Davila's Fault
3/28/2008	Yes
7/24/2008	Yes (rear ended vehicle on ramp and invented a story that the other vehicle backed up into him, per Insurance Company letter)
9/28/2009	No (vehicle parked and damaged)
8/5/2010	No
12/30/2011	No
2/10/2012	Yes
9/3/2013	Yes (terminated after that accident)

In total Davila had 4 accidents at fault, being terminated for the last one. He also had two accidents at fault while driving his personal car (4/2007 and 10/2010, Driving record from RMV), and some violations of various Respondents policies. That was probably into the decision to terminate Davila

Exception 23:

The Respondent excepts to the ALJ's assertion that "in addition, Karyakin's testimony regarding whether certain employees were still employed was of little assistance" (ALJ's at page 8, line 2) somehow made it difficult to create lists of discharged and not discharged employees. Counsel for General Counsel requested all lists of all employees, and all accidents, and derived some lists of employees who were either terminated for accidents, or had accidents and were not terminated at the time, so all that information was readily available for ALJ when making analysis and conclusions, it's all in the Case. Analysis and decisions are probably made based on finding of facts, on documents, in this case comparing lists created by Counsel, not on judging memory of Respondents General Manager, whose skill is to know where to find information on his computer, not to remember all these details 7 months after the events.

Exception 24:

The Respondent excepts to the ALJ's finding of fact that "rather than crediting Karyakin's testimony that he warned him (Davila) that if he had another accident, he would be discharged" (ALJ's at page 8, line 13). They both could be correct, Davila remembering that Parnas advised him to be more careful, and Karyakin giving Davila a warning. Besides giving more credibility to the Accuser, who demanded extra money while proposing Respondent a settlement (Davila just wants to make some easy money abusing NLRB process) rather than to a testimony of Respondent's General Manager, a very respectful and knowledgeable person, with Degree in Science and about 45 years of working life is a result of either lack of judgment or biased finding of facts by ALJ.

Exception 25:

The Respondent excepts to the ALJ's giving any credibility to the fact that "Davila testified that it was caused by problems with the brakes on Van 25 because he had to press very hard on the brakes" (ALJ's at page 8, line 15). It's common for drivers involved in accidents when rear ending another vehicle to invent stories about brakes. After the accident on 9/3/2013 two

mechanics checked brakes, one of them (the smart one) did the test ride on the van and found brakes working properly. After that Davila was driving that van and transporting passengers for another three days. Brakes were good, Davila was driving on unsafe negligent manner and as a result rear ended another vehicle. Besides, he once already made up a story about another vehicle backing up into him, when in reality Davila rear-ended that vehicle (Accident on 7/24/2008, per Pilgrim Insurance, their letter dated 10/14/2008, Claim 169500370995, loss 7/24/2008), see Exh. B below.

Davila was driving van 25 for about a week before the accident on 9/3/2013, never complained about brakes and several days prior to accident had inspection with mechanics, filling in checklist that brakes were OK.

Exception 26:

The Respondent excepts to the ALJ's finding of fact that "During the six years of his employment with the Respondent, Davila had two accidents that were clearly his fault" (ALJ's at page 8, line 19). Davila had 4 accidents at fault during that time, 3/28/08, 7/24/08, 2/10/12, 9/3/13 accidents (Post Hearing Brief by Respondent, Exh. A) , either backing into something or rear ending another vehicle, all of them out of negligence, of very dangerous type, making him very unsafe driver. He also had three accidents not at fault, making total of 7 accidents with REM. In addition his driving record includes two accidents at fault while driving personal car (4/2007 and 10/2010, Driving record from RMV)

Exception 27:

The Respondent excepts to the ALJ's finding of fact that "other employees such as Mario Martinez, Veronica Martinez, who had 4 accidents in thirteen months, Steven Ricker, Yrbin Rodriguez and Reynaldo Rosario had equally or worse accident records and, apparently, were not discharged" (ALJ's at page 8, line 25). In fact, Respondent with the help of a Counsel for General Counsel, who deciphered a trove of accident reports she selected to proof her theory

(Post Hearing Brief on Behalf of General Counsel, pages 11-15, 15-20), and by looking at that list, and use very simple way to identify accidents AT FAULT (rear ending, backing, accidents while turning or changing lanes) one can see the following:

Drivers who were discharged (ALJ's at page 5, line 13):

NAME	ACCIDENTS AT FAULT
Karapetyan	3
Mendez	1
Rodriguez	1
Marseille	1
Arroyo	2
Martinez	4
Aime	2 (1 serious, van totaled)
Cristobal	4

Drivers who were NOT discharged (ALJ's at page 6, line 9)

NAME	ACCIDENTS AT FAULT
Aybar	0
Brown	0
Cristobal	3 (later had an accident at fault and was terminated)
Mario Martinez	2
V. Martinez	3 (quit rather than being terminated, rehired as Monitor)
Ricker	2 (had warning "one more accident you are fired")
Y. Rodrigez	2 resigned
R. Rosario	3 resigned

The truth of the fact is – when you count accidents AT FAULT (and one should only consider accidents at fault) then Davila was clearly the worst driver in the Company, having been terminated for having 4th accident at fault, when drivers who were not discharged had no more than 3.

Exception 28:

The Respondent excepts to the ALJ's finding of fact that "Cristobal had five accidents and, Amelia Martinez was not discharged until after her 5th accident" (ALJ's at page 8, line 28). Cristobal had 3 accidents at fault at the time of the Counsel subpoenaed documents and was still employed. She had another, 4th accident at fault and was terminated in Dec 2013. Amelia Martinez had 2 accidents at fault as of 5/16/2013, but she was terminated mostly for having an incident – passenger fell because she improperly secured the passenger.

Exception 29:

The Respondent excepts to the ALJ's finding of fact that "the discharge of Davila on September 6 for the September 3 accident was pretextual, and that he was fired in retaliation for his Union activity" (ALJ's at page 8, line 29). That finding is unfounded, biased and contrary to the facts of the Case.

Exception 30:

The Respondent excepts to the ALJ's conclusion that "3. By paying Jorge Davila \$20 weekly seniority pay, rather than \$35 weekly, from April through September 2013, and by discharging him on September 6, 2013, ~~the~~ Respondent violated Section 8(a)(3)(4) of the Act" (ALJ at page 8 line 42). ALJ's Conclusion is unfounded on the fact and the law. Respondent paid Davila PROPER Seniority Pay amount, in strict accordance with Respondent's official policy on Seniority Pay and seniority calculation based on the Date of Last Hire (GC 22, GC 23, GC 7). Respondent terminated Davila for being very unsafe driver, having 4 accidents AT FAULT during his employment with Respondent, and also two accidents AT FAULT on his personal car

during the same time period (Davila's RMV driving record). The finding of facts does not support that Respondent discriminated against Davila by paying him lower seniority pay than he was entitled to in accordance with Respondent's policy on seniority pay. Davila was paid the proper amount when calculating his seniority in accordance with Respondent's policy. The undisputable fact is that Davila had the worst accident history among all Respondent's employees, 4 accidents at fault, and was terminated as an unsafe driver.

Exception 31:

The Respondent excepts to the ALJ's Order that "Offer Jorge Davila full and immediate reinstatement" (ALJ's at page 9, line 27) – the Order conflicts with requirements that regulate the way Respondent operates with state agencies, specifically drivers it can employ. Respondent can not employ unsafe driver, contracts with clients stipulate that. Also Respondent's responsibility with its clients preclude the possibility of employment of an unsafe driver. Davila with 4 accidents at fault is clearly known unsafe driver.

Conclusion:

For the reasons set forth above, pursuant to 29 C.F.R. § 102.48(c) of the Board's Rules and Regulations ("Board"), hereby the ALJ's Decision and Recommended Order should be rejected in their entirety, because the factual finding of the ALJ is contrary to the preponderance of the evidence. The General Counsel's Amended Complaint should be dismissed.

Respectfully submitted,



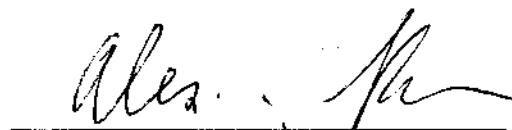
Alexei Kataenko, Pro Se, for the Respondent

CERTIFICATE OF SERVICE

I, Alexei Z. Kataenko, do certify that I have this day served by electronic and regular mail copies of the Respondent's Exceptions to the Administrative Law Judge's Decision to the parties listed below:

Laura Pawle, Counsel for
General Counsel, NLRB,
Boston Office

Jorge Davila
165 Columbia Rd #11
Dorchester, MA 02121
Regular mail



Alexei Kataenko, Pro Se, for the Respondent

6/30/2014

TRAVELERS 

The Phoenix Insurance Company
P.O. Box 111
Middleboro, MA 02344-0111
(800)422-3340

10/14/2008

Pilgrim Insurance Company
P O Box 120540
Boston, MA 02112-0540

Insured: Bill Tompkins Corporation
Claimant: /R E M Services Transportation LLC
Claim/File #: 011 AB A6S3275 M
Date of Loss: 07/24/2008
Reference #: 169500370995

Dear Sir or Madam:

We have concluded our investigation of the above claim. It is our obligation to pay, on behalf of our insured, all claims for which our insured is legally liable. According to our investigation, our insured is not liable for your damages resulting from this loss.

We have determined that you were the sole, proximate cause of the collision because of the conflicting description of loss. Our insured maintains that he did not back up on the off ramp that your insured cut him off hitting his driver sided mirror. We regret this unfortunate incident occurred; however, because our insured is not liable for your damages, we must deny your claim.

The Statute of Limitations in the State of 6 for property damage claims is 6 years from the date of accident. This requires that you either settle your claim or file a lawsuit against our insured(s) within 6 years or you will be barred from pursuing a further claim against our insured.

Our decision is based on the facts currently available. If you have any additional information which you feel may change our position or that you would like us to consider, please let us know immediately. We thank you for your cooperation in this matter.

Sincerely,
Rachael Thielker
CI Rep
(508)946-6329
Fax: (877)786-5584
Email: RTHIELKE@travelers.com

Exhibit

B

KEM

Section A: Crash Location												
City/Town Where Crash Occurred 93 N By 1240 (Albany St)				Date of Crash 07/24/08		Time of Crash 6:40 AM		# Vehicles Involved 2				
Please complete Section A1 or A2 below to indicate the location of the crash. If you need additional space to describe the crash location, please use Section J on the last page of this form.												
SECTION A1: Complete this Section if the crash occurred at an intersection of two or more streets: Step 1: Please indicate the route or roadway where you were traveling when the crash occurred: Route# _____ Name of Roadway/Street _____ Step 2: What was the name (or names) of the intersecting streets? Route# _____ Name of Roadway/Street _____ Route# _____ Name of Roadway/Street _____				<div style="text-align: center; font-weight: bold; font-size: 1.2em;">OR</div> SECTION A2: Complete this Section if the crash did NOT occur at an intersection: Step 1: Please indicate the route, roadway and address where the crash occurred: The crash occurred on Route #: _____ at Street or Address Number: _____ on the Street/Roadway known as: _____ Step 2: Please provide as much of the following specific location information as possible: The crash occurred (estimate number of feet) _____ feet (indicate direction as N/S/E/W) _____ of a) Mile Marker number _____ OR: b) Exit Number _____ OR: c) Intersecting Street/Roadway _____ Route# _____ Name of Roadway/Street _____ OR: d) Landmark _____								
Section B: Vehicle You Were Driving												
Number of occupants in vehicle (including yourself): 1				Was vehicle damage above \$1000? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No								
Driver's License Number S3939812		License State MA	Date of Birth 04/24/1978	Age 30	Sex M	License Class D - A - B		Commercial Driver's License Endorsements <input checked="" type="checkbox"/> Hazardous <input type="checkbox"/> Tank vehicles <input type="checkbox"/> Doubles/Triples <input type="checkbox"/> Tank and Hazardous				
Your Full Name (Last, First, Middle) Large J. Davila				Street Address 144 Grenada Avenue Apt B3				City/Town State Zip Dorchester MA 02128				
Insurance Company Pilgrim Insurance Inc.		Vehicle Registration # LV48111		Reg. Type LVN	Reg. State MA	Vehicle Year 2006	Vehicle Make FORD					
Indicate your type of vehicle												
1 Passenger car 4 Bus (15 or more passengers) 8 Truck/trailer 12 Tractor/triples 97 Other 2 Light truck (van, mini-van, pick-up, sport utility) 5 Bus (7-15 passengers) 9 Truck tractor (bobtail) 13 Unknown heavy truck 99 Unknown 3 Motorcycle 6 Single-unit truck (2 axles) 10 Tractor/semi-trailer 14 Motor home/recreational vehicle 7 Single-unit truck (3 or more axles) 11 Tractor/doubles												
Full Name of Vehicle Owner (Last, First, Middle) Ben Services Transportation				Street Address 4C Yankee Division		City/Town Bedford		State Zip MA 01730-2833				
Vehicle Travel Direction X N S E W		What Was Your Vehicle Doing Prior to the Crash?										
		1 Travelling straight ahead 4 Turning left 7 Leaving traffic lane 10 Backing 97 Other 2 Slowing or stopped 5 Changing lanes 8 Making U-turn 11 Parked 99 Unknown 3 Turning right 6 Entering traffic lane 9 Overtaking/passing										
Please indicate the Sequence of Events as they occurred to YOUR Vehicle by writing the corresponding number (1-52, or 97, 99) in up to 4 boxes below.												
What happened first? <div style="border: 1px solid black; width: 30px; height: 30px; text-align: center; line-height: 30px;">1</div>		What happened 2nd (if applicable)? <div style="border: 1px solid black; width: 30px; height: 30px;"></div>		What happened 3rd (if applicable)? <div style="border: 1px solid black; width: 30px; height: 30px;"></div>		What happened 4th (if applicable)? <div style="border: 1px solid black; width: 30px; height: 30px;"></div>						
<table style="width:100%; border: none;"> <tr> <td style="vertical-align: top; width: 33%;"> Collision with 1 Motor vehicle in traffic 2 Parked motor vehicle 3 Pedestrian 4 Cyclist 5 Animal- deer 6 Animal- other 7 Moped 8 Work zone maintenance equipment 9 Railway vehicle (train, engine) 10 Other movable object 11 Unknown movable object 20 Curb 21 Tree 22 Utility pole </td> <td style="vertical-align: top; width: 33%;"> 23 Light pole or other post/support 24 Guardrail 25 Median barrier 26 Ditch 27 Embankment/Shoulder 28 Highway traffic signpost 29 Overhead sign support 30 Fence 31 Mailbox 32 Crash cushion/Impact attenuator 33 Bridge 34 Bridge overhead structure 35 Other fixed object (wall, building, tunnel) 36 Unknown fixed object </td> <td style="vertical-align: top; width: 33%;"> Non-Collision 40 Ran off road right 41 Ran off road left 42 Cross median/centerline 43 Overturn/rollover 44 Equipment failure (blown tire, brakes, etc) 45 Fire/explosion 46 Immersion 47 Jackknife 48 Cargo/equipment loss or shift 49 Separation of units 50 Downhill runaway 51 Other non-collision 52 Unknown non-collision 97 Other 99 Unknown </td> </tr> </table>										Collision with 1 Motor vehicle in traffic 2 Parked motor vehicle 3 Pedestrian 4 Cyclist 5 Animal- deer 6 Animal- other 7 Moped 8 Work zone maintenance equipment 9 Railway vehicle (train, engine) 10 Other movable object 11 Unknown movable object 20 Curb 21 Tree 22 Utility pole	23 Light pole or other post/support 24 Guardrail 25 Median barrier 26 Ditch 27 Embankment/Shoulder 28 Highway traffic signpost 29 Overhead sign support 30 Fence 31 Mailbox 32 Crash cushion/Impact attenuator 33 Bridge 34 Bridge overhead structure 35 Other fixed object (wall, building, tunnel) 36 Unknown fixed object	Non-Collision 40 Ran off road right 41 Ran off road left 42 Cross median/centerline 43 Overturn/rollover 44 Equipment failure (blown tire, brakes, etc) 45 Fire/explosion 46 Immersion 47 Jackknife 48 Cargo/equipment loss or shift 49 Separation of units 50 Downhill runaway 51 Other non-collision 52 Unknown non-collision 97 Other 99 Unknown
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Was your Vehicle Towed From the Scene Due to Damage? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No				Vehicle Damaged Area (circle up to three) <div style="text-align: center;"> </div>								

GC Exhibit

4

UNATTESTED DRIVING RECORD

TRANSACTION ID: 6654408WN

SEARCH DATE: 02/24/2012

OWNER: DAVILA, JORGE L

DATE OF BIRTH: 09/29/1969

REQUESTOR: V PARNAS

LICENSE#: S39398127

DRIVING RECORD

THE FOLLOWING IS A LIST OF ALL ACTIVE OFFENSES AND ACTIONS ON FILE.

INCIDENT DATE	OFFENSE DESCRIPTION	COURT	FINDING DATE
01/16/2007	DRIVING RECORD TO S39398127		
04/23/2007	SURCHARGEABLE ACCID DORCHESTER		05/04/2007
06/29/2007	DRIVING RECORD TO CHOICEPOINT		
02/14/2008	DRIVING RECORD TO JORGE L DAVILA		
06/30/2008	DRIVING RECORD TO CHOICEPOINT		
07/18/2008	DRIVING RECORD TO CHOICEPOINT		
08/25/2008	LANE VIOLATION ROXBURY R	ROXBURY DISTR	11/06/2008
12/12/2008	SUSPENSION PAYMENT DEFAULT INDEFINITE		01/21/2009
12/30/2008	EXPIRATION PAYMENT DEFAULT RLS ROXBURY		12/30/2008
09/24/2009	DRIVING RECORD TO DAVILA, JORGE		
07/14/2010	DRIVING RECORD TO V PARNAS		
10/24/2010	SURCHARGEABLE ACCID DANVERS		11/22/2010
03/16/2011	FAILURE TO STOP BRIGHTON R		04/21/2011
04/21/2011	SUSPENSION PAYMENT DEFAULT INDEFINITE		05/31/2011
05/02/2011	EXPIRATION PAYMENT DEFAULT RLS BRIGHTON		05/02/2011
09/06/2011	DRIVING RECORD TO V PARNAS		
02/24/2012	DRIVING RECORD TO V PARNAS		

CONTINUED ON NEXT PAGE

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DAVILA'S RMV ✓